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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,882	03/23/2004	Joe D. Allison	1856-30102 (9672.0-02)	2681

31889 7590 06/10/2005

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EXAMINER

DANG, THUAN D

ART UNIT PAPER NUMBER

1764

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,882

Applicant(s)

ALLISON ET AL.

Examiner

Thuan D. Dang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/23/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the status of the divisional application disclosed in the specification should be updated. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6 and 9-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woskow et al (3,856,880).

Woskow discloses a process of oxidative dehydrogenation of an hydrocarbon such as isobutane to an olefin such as isobutene in the presence of a catalyst containing lanthanum, cerium, zinc, tin . . . , a platinum metal such as rhodium, and a support such as alumina (the abstract; col. 1, line 20; col. 2, lines 29-31; col. 3, lines 15-20; col. 5, line 25; col. 6, lines 6 and 7).

Although, Woskow does not specifically pick lanthanide as Me components for the catalyst (see entire patent for details), It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Woskow process by pick lanthanum or cerium as Me component to arrive at the applicants' claimed process since it is expected that using any metals disclosed by Woskow on column 3, lines 18-20 would yield similar results.

The amount of platinum metals can be found on column 9, line 12.

The ratio of oxygen and hydrocarbon can be found on col. 7, lines 22-27.

The amount of lanthanide metal can be found and calculated on column 3, lines 50-57, column 4, line 65 thru column 5, line 9 and examples.

As disclosed on column 7, lines 13-15, the conversion and the selectivity can be selected.

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As disclosed on page 8, lines 8-21, although Woskow does not disclose a GHSV as called for in claim 2 and 3, Woskow discloses that the flow rate can be selected to optimize the process depending on other variables.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woskow et al (3,856,880) in view of Font Freide et al (4,940,826).

Woskow does not disclose preheating the feed. However, Font Freide discloses preheating the feed (col. 3, lines 49-53).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Woskow process by preheating the feed as taught by Font Freide to arrive at the applicants' claimed process since it is preferred.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan D. Dang whose telephone number is 571-272-1445. The examiner can normally be reached on Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thuan D. Dang
Primary Examiner
Art Unit 1764

10806882.20050607

A handwritten signature in black ink, appearing to read 'Thuan D. Dang', is written over the printed name and title.